

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

<i>In re Matter of Application No. 85/569,798 for the mark POP OF CULTURE</i>	Opposition No. _____
Ovation LLC	NOTICE OF OPPOSITION
Opposer,	
vs.	
E! Entertainment Television, LLC	
Applicant.	
	05/01/2013 SWILSON1 00000004 505691 85569798 01 FC:6402 300.00 DA

Commissioner for Trademarks
ATTN: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandra, VA 22313-1451

Dear Commissioner:

Opposer, Ovation LLC, ("Opposer") a Delaware limited liability company, having a business address of 2850 Ocean Park Blvd., Suite 225, Santa Monica, California 90404, believes that it will be harmed by the registration of the mark POP OF CULTURE, as shown in U.S. Application No. 85/569,798 (the "Application"), and hereby opposes the Application on the following grounds:

1. Opposer is a multi-platform television network with programming devoted to art and culture, and reaches a national audience of 45 million households through carriage on cable, satellite and terrestrial systems, and via video-on-demand services in the United States. Opposer uses the mark CULTUREPOP in connection with television programming and website services, and has used such mark since before the filing date of the Application. Opposer also uses CULTUREPOP for downloadable electronic publications.



04-29-2013

2. On March 14, 2012, Applicant E! Entertainment Television, LLC, a Delaware limited liability company, having a business address of 5750 Wilshire Boulevard, Los Angeles, California 90036 (“Applicant”), filed the Application to register the mark POP OF CULTURE for television, cable television, satellite television, internet, wireless, mobile, radio, and interactive multimedia broadcasting services; broadcasting and transmission of programming, audio and visual content, and entertainment media content via television, cable television, satellite television, video-on-demand, digital media, multimedia, the internet, and wireless and mobile networks; podcasting and webcasting services; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users, in International Class 38, and television programming services; entertainment in the nature of television programming, cable television programming, satellite television programming, internet programming, multimedia programming, and programming via wireless and mobile networks; entertainment services, namely, audio-visual programming via the internet and wireless and mobile networks; production of television, cable, video-on-demand, digital, satellite, wireless, mobile, internet, and multimedia programs and entertainment media content; production and programming of audio and video content; providing online journals, namely, blogs in the field of entertainment; provision of news and information via the internet and mobile and wireless networks in the field of entertainment, in International Class 41, on an intent-to-use basis under Section 1(b) of the Lanham Act.

3. The Application was published for opposition in the Official Gazette on December 25, 2012. Opposer requested and was granted extensions of time until April 24, 2013 to oppose the Application.

4. Opposer began using the mark CULTUREPOP for website services at least as early as August 2010. This date of first use precedes the filing date of the Application. Since then, Opposer has been using the CULTUREPOP mark continuously in commerce for a variety of goods and services, including downloadable electronic publications in the nature of e-newsletters and guides in the field of arts, culture and entertainment featuring recommendations,

reviews, trivia questionnaires, news, recipes and opinion polls, in International Class 9, providing a website featuring information about arts and culture; providing non-downloadable electronic publications in the nature of e-newsletters and guides in the field of arts, culture and entertainment featuring recommendations, reviews, trivia questionnaires, recipes, news and opinion polls; on-line journals, namely, blogs featuring arts and culture, in International Class 41, and creating and maintaining blogs for others, in International Class 42, and Opposer's CulturePop.com website has received significant media attention. Opposer has developed common law rights in the CULTUREPOP mark which predate the Application.

5. Opposer is also using its mark for entertainment in the nature of television programs offered on websites; production and distribution of television programs and other entertainment events; providing entertainment information about television programs, artists and performers, entertainment and arts events, newsworthy events and personalities; television programming services; entertainment in the nature of television programming, cable television programming, satellite television programming, internet programming, multimedia programming, and programming via wireless and mobile networks; entertainment services, namely, audio-visual programming via the internet and wireless and mobile networks; production of television, cable, video-on-demand, digital, satellite, wireless, mobile, internet, and multimedia programs and entertainment media content; production and programming of audio and video content; providing online journals, namely, blogs in the field of entertainment; provision of news and information via the internet and mobile and wireless networks in the field of entertainment, and has used such mark since at least as early as 2010.

6. By virtue of Opposer's extensive use, promotion and advertising of its services and mark, its mark is recognized by the relevant public as identifying a website devoted to art and contemporary culture and other services otherwise associated with Opposer and its Ovation TV network.

7. The registration of Applicant's POP OF CULTURE mark is likely to cause confusion, mistake, or deception as to the source or origin of Applicant's goods and services

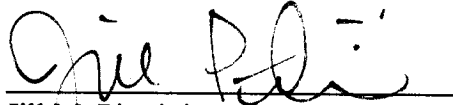
offered under the POP OF CULTURE mark, and/or to draw a false association, sponsorship, connection, affiliation, or endorsement with Opposer, the CulturePop.com website and/or the CULTUREPOP Intellectual Property.

8. Opposer will be damaged by the registration of the mark shown in the Application, in that such registration gives Applicant a *prima facie* exclusive right to the use of the POP OF CULTURE mark, despite the likelihood of confusion, mistake, and/or deception, and allows Applicant to trade on Opposer's existing goodwill in the CULTUREPOP mark, the CulturePop.com website, and the CULTUREPOP Intellectual Property.

9. Please charge the requisite \$300 opposition filing fee and any additional amounts to **Deposit Account No. 50-5691**.

WHEREFORE, Opposer prays that this Opposition be sustained in favor of Opposer, that the Application be rejected, and that registration of the Application be refused.

Respectfully submitted,



Jill M. Pietrini

Whitney Walters

SHEPPARD MULLIN RICHTER & HAMPTON LLP

1901 Avenue of the Stars, Suite 1600

Los Angeles, California 90067-6017

(310) 228-3700

Attorneys for Opposer Ovation LLC

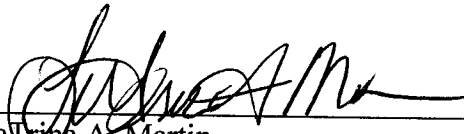
Dated: April 24, 2013

CERTIFICATE OF SERVICE

I hereby certify that this Notice of Opposition is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to:

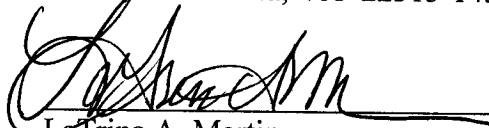
Monique Cheng Joe
NBCUniversal Media, LLC
100 Universal City Plaza, LRW 6
Universal City, CA 91608

on this 24th day of April, 2013.


LaTrina A. Martin

CERTIFICATE OF MAILING

I hereby certify that this Notice of Opposition is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, Attn: Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, VA 22313-1451, on this 24th day of April, 2013.


LaTrina A. Martin

SMRH:408000936.2